

THE FOLLOWING GREENWOOD COMMON COUNCIL ORDINANCE WILL BE INTRODUCED AT THE OCTOBER 2, 2006, MEETING, WITH FIRST READING AT THE OCTOBER 16, 2006, MEETING, AND SECOND READING AT THE NOVEMBER 6, 2006, MEETING **PLEASE NOTE THIS ORDINANCE IS SUBJECT TO AMENDMENTS BY THE COMMON COUNCIL.** IF YOU WISH TO SEE THE ADOPTED ORDINANCE PLEASE CONTACT THE CLERK-TREASURER OFFICE AT (317) 888-2100 OR VIA E-MAIL AT CLERK@GREENWOOD.IN.GOV FOR AN EXECUTED COPY AFTER THE SECOND READING.

GREENWOOD COMMON COUNCIL

ORDINANCE NO. 06-39

AN ORDINANCE AMENDING GREENWOOD MUNICIPAL CODE (1993), AS AMENDED, CHAPTER 5, "PARKS AND RECREATION", ARTICLE 2, "PARK RULES AND REGULATIONS", TO ADD A NEW SECTION TO ADOPT REGULATIONS LIMITING ACCESS OF PERSONS REQUIRED TO AND OR LISTED ON THE INDIANA STATE SEX OFFENDER REGISTRY TO CERTAIN PARK FACILITIES AND PLAYGROUND AREAS

WHEREAS, the Indiana Legislature has determined that sexually violent predators, as defined by IC 35-38-1-7.5, present a continuing danger to the public sufficient to require that such persons be monitored on parole for the remainder of their lives pursuant to IC 35-50-6-1; and

WHEREAS, the Common Council ("Council") hereby determines that any person deemed to be an offender against children and required to register under IC 5-2-12 or who has been found by a court to be a sexually violent predator, under IC 35-38-1-7.5, or the law of any jurisdiction that identifies the person as being likely to repeatedly commit a sex offense, or has been convicted of one (1) or more of the following offenses:

- a) Child molesting (IC 35-42-4-3);
- b) Child Exploitation (IC 35-42-4-4(b));
- c) Child Solicitation (IC 35-42-4-6);
- d) Child seduction (IC 35-42-4-7);
- e) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age; or
- f) An offense in another jurisdiction that is substantially similar to an offense described in subsections (a) through (e);

represents a continuing threat to the health and safety of children; and

WHEREAS, public parks and playgrounds are provided for the use, recreation, education, training, entertainment and enjoyment of children and families of children and such properties are intended to be and should be free of the dangers presented to their health and welfare by persons so identified and required to register under IC 5-1-12; and

WHEREAS, the Council determines that the public safety and welfare of the community, particularly children, shall be best served by prohibiting persons required to register under IC 5-2-12 for the conviction of any of the offenses hereinabove, from going within one thousand feet (1,000') of a public playground, recreation center, swimming or wading pool, sports field or facility, pathway or trail, when children are present unless such person or persons are accompanied by an adult person who is not also required to register under IC 5-2-12,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GREENWOOD, INDIANA, THAT:

Section 1. Greenwood Municipal Code (1993), as amended, Chapter 5., "Parks and Recreation", Article 2., "Park Rules and Regulations", is hereby amended by adding Section 5-18,

“Limiting Access of Persons Required to and or Listed on the Indiana State Sex Offender Registry to Certain Park Facilities and Playground Areas”, to read as follows:

“Sec. 5-18 Limiting Access of Persons Required to and or Listed on the Indiana State Sex Offender Registry to Certain Park Facilities and Playground Areas

(a) It shall be unlawful for any person deemed to be an offender against children and required to register under IC 5-2-12 or who has been found by a court to be a sexually violent predator under IC 35-38-1-7.5, or the law of any jurisdiction that identifies the person as being likely to repeatedly commit a sex offense, or who has been convicted of one (1) or more of the following offenses:

- (1) Child molesting (IC 35-42-4-3);
- (2) Child Exploitation (IC 35-42-4-4(b));
- (3) Child Solicitation (IC 35-42-4-6);
- (4) Child seduction (IC 35-42-4-7);
- (5) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age; or
- (6) An offense in another jurisdiction that is substantially similar to an offense described in subsections (1) through (5);

to be within one thousand feet (1,000') of a public playground, recreation center, swimming or wading pool, sports field or facility, public pathway or trail, when children are present unless such person or persons are accompanied by an adult person who is not also required to register under IC 5-2-12.

(b) It shall be unlawful for any person required to register under IC 5-2-12 to bring or accompany any other person required to register under IC 5-2-12 to a public playground, park, recreation center, swimming or wading pool, sports field or facility, public pathway or trail, when children are present or are expected to be present at such facility or property. However, this section shall not apply to any person whose name has been removed from the registry by act of a court or by expiration of the term such person is required to remain on the registry pursuant to IC 5-2-12.

(c) A person who violates any provision of Sec. 5-18 (a) or (b) shall be guilty of an infraction punishable by:

- (1) A fine of \$500 for a first violation;
- (2) A fine of \$1,000 for a second violation within one (1) year;
- (3) A fine of \$2,500 for each additional violation within one (1) year.
- (4) Penalties shall be processed through the Greenwood City Court, in accordance with I.C. 33-36-2-3.
- (5) If, after multiple violations by the same person, the Greenwood City Attorney and the Greenwood Police Department have reasons to believe that the imposition of fines will not be effective in enforcing this Section, the City Legal Department shall be empowered to seek any other remedies provided by law.
- (6) Fines under this Section shall not apply when the prohibited conduct is the subject of a new criminal offense under any applicable state or federal statute or when the prohibited conduct is the basis for the revocation or any condition of parole or probation.

(d) If any subsection, sentence or provision of this Section, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable.

Section 2. The sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are separable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a Court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Section 3. This Ordinance shall be in full force and effect upon its passage, approval and publication according to law.

Passed by the Common Council of the City of Greenwood, Indiana, this _____ day of _____, 2006.

Ronald Bates, President
Greenwood Common Council

FOR:

AGAINST:

ATTEST:

Jeannine Myers, Clerk-Treasurer

The foregoing within and attached Ordinance passed by the Common Council of the City of Greenwood, Indiana, on the _____ day of _____, 2006, is presented by me this _____ day of _____, 2006, at _____ O'Clock _____.M., to the Mayor of the City of Greenwood, Indiana.

Jeannine Myers, Clerk-Treasurer

The foregoing within and attached Ordinance passed by the Common Council of the City of Greenwood, Indiana, on the _____ day of _____, 2006, is signed and approved by me this _____ day of _____, 2006, at _____ O'Clock _____.M.

CHARLES E. HENDERSON, Mayor of
the City of Greenwood, Indiana